

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 08-43477

SHERYL ROSS,

Chapter 13

Debtor.

Judge Thomas J. Tucker

ORDER DENYING, WITHOUT PREJUDICE, DEBTOR'S "MOTION FOR RETURN OF FUNDS TAKEN IN WILLFUL VIOLATION OF THE AUTOMATIC STAY § 362(a)(7) AND REQUEST FOR SANCTIONS AND COSTS" (DOCKET # 59), AND CORRECTED "MOTION FOR RETURN OF FUNDS TAKEN IN WILLFUL VIOLATION OF THE AUTOMATIC STAY § 362(a)(7) AND REQUEST FOR SANCTIONS AND COSTS" (DOCKET # 63)

On July 9, 2009, Debtor filed a "Motion for Return of Funds Taken in Willful Violation of th Automatic Stay § 362(a)(7), (Docket # 59, the "Motion"), seeking return of funds from, and other relief against, Key Bank, and a Certificate of Service of the Motion (Docket # 60). On September 2, 2009, Debtor filed a Certificate of No Response indicating that no one had filed an objection to the Motion. On September 4, 2009, the Court entered an Order regarding the Motion (Docket # 62). That Order provided, in relevant part:

The Court cannot yet grant the Motion, because service on Key Bank is defective.

The Certificate of Service states that Debtor served "Key Bank, Card Service Center" at a P.O. Box in Irving, Texas, and "Key Bank" at an address in Ann Arbor, Michigan, both by ordinary mail. This is not proper service on Key Bank because it does not meet the requirements under Fed.R.Bankr.P. 9014(b) and 7004(h)(Key Bank being an institution of the type described in Rule 7004(h)).

Accordingly,

IT IS ORDERED that no later than **September 18, 2009**, Debtor must properly serve Key Bank under Fed.R.Bankr.P. 9014(b) and 7004(h), *and* file an appropriate new certificate of

service. If Debtor fails to meet these requirements by the date specified, the Motion may be denied without further notice or hearing.

(bold and italics in original).

On September 16, 2009, Debtor filed a “corrected” motion entitled “Motion for Return of Funds Taken in Willful Violation of th Automatic Stay § 362(a)(7)” (Docket # 63, the “Corrected Motion”). On September 17, 2009, Debtor filed a Certificate of Service regarding the Corrected Motion (Docket # 64). The Certificate of Service of the Corrected Motion is defective because it shows service on *Fifth Third Bank*, but says nothing about service on Key Bank. But the Motion and the Corrected Motion seek relief only against Key Bank.

Debtor did not comply with the Court’s September 4, 2009 Order, because Debtor did not file a certificate of service showing proper service on Key Bank, by the September 18, 2009 deadline for filing such a certificate of service. For this reason,

IT IS ORDERED that the Motion (Docket # 59), and the Corrected Motion (Docket # 63) are each DENIED, without prejudice.

Signed on September 20, 2009

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge